

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRELL VASHAWN ROSS,

Defendant-Appellant.

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UNPUBLISHED

August 26, 2008

No. 278799

Kent Circuit Court

LC No. 06-009771-FH

Before: Cavanagh, P.J., and Jansen and Kelly, JJ.

MEMORANDUM.

Defendant appeals as of right his jury convictions of unlawful imprisonment, MCL 750.349b, assault with a dangerous weapon, MCL 750.82, and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. We affirm.

Defendant's sole argument on appeal is that the trial court erred in allowing evidence of the victim's on-the-scene identification to be admitted into evidence at trial because the identification was unduly suggestive. We review defendant's unpreserved claim for plain error that affected his substantial rights. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999).

Defendant argues that the on-the-scene identification in the case was unduly suggestive because officers told the victim that they had the suspect and defendant was handcuffed and placed in the police cruiser at the time of the identification. We disagree. When considering the totality of the circumstances, the identification process was not impermissibly suggestive. See *People v Hornsby*, 251 Mich App 462, 466; 650 NW2d 700 (2002). The identification took place quickly, within 15 minutes after the assault, and the victim never wavered in her decision that defendant was her attacker, indicating that she knew what her attacker looked like. The victim had seen defendant on other occasions, including an earlier incident in which defendant verbally assaulted her. When she gave officers the assailant's description she was asked whether this was the same individual with whom she had quarreled in January 2006. She answered affirmatively and the officer stated, "Terrell Ross." Defendant admitted in an interview that he made the January 2006 statements. Additionally, the victim had sufficient time to observe and interact with defendant during her ordeal. She could see the back of defendant's head and noted that he had a design cut into the back of his hair. Thus, the identification was made based on the victim's observations before and during the attack and was not based solely on defendant's position in the police car. Finally, defendant's attorney questioned the victim about her ability to

perceive and identify defendant as the assailant and argued that the identification procedure was unduly suggestive and unreliable. Defendant was, therefore, able to raise the issue of whether the victim correctly identified him as her attacker.

Affirmed.

/s/ Mark J. Cavanagh  
/s/ Kathleen Jansen  
/s/ Kirsten Frank Kelly